

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JASON S. BROOKNER,

Plaintiff,

vs.

No. 10-cv-006396 JAP/KBM

SSC, INC., a New Mexico Corporation

SEAN M. CANTRELL, and

EVANGELINE LUJAN-VIGIL,

Defendants.

MEMORANDUM OPINION AND ORDER

On April 6, 2011 Defendant Evangeline Lujan-Vigil filed a Motion To Set Aside Clerk's Entry Of Default (Motion to Set Aside) (Doc. No. 64). The Court held a hearing on the Motion to Set Aside on April 14, 2011. At the hearing, counsel for Lujan-Vigil represented that she had been unable to locate Lujan-Vigil until after default had already been entered and that Lujan-Vigil was unaware of the pendency of this action despite the service by publication effectuated by Plaintiff Jason Brookner. Brookner opposed setting aside the default judgment on the ground that Brookner incurred attorneys fees and costs attempting to locate Lujan-Vigil, serving Lujan-Vigil by publication, and seeking a default judgment. Having considered the arguments of both parties, the Court will grant Lujan-Vigil's Motion to Set Aside on the condition that Lujan-Vigil pay any costs and fees that the Court awards Brookner following the Court's receipt of a sworn affidavit from Lujan-Vigil.

IT IS ORDERED THAT Defendant Evangeline Lujan-Vigil's Motion to Set Aside Clerk's Entry Of Default (Doc. No. 64) is GRANTED on the condition that Lujan-Vigil pay any costs related to service of process and entry of default that the Court awards to Plaintiff Jason

Brookner.

IT IS FURTHER ORDERED THAT Defendant Evangeline Lujan-Vigil must submit an affidavit to the Court by April 22, 2011 explaining her knowledge of the lawsuit, when and how she came into contact with her attorney, and her ability to pay costs.



SENIOR UNITED STATES DISTRICT COURT JUDGE